

**COMMODITY SUPPLEMENTAL FOOD PROGRAM (CSFP)  
APPLICATION/AGREEMENT****Agreement between State Agency and CSFP Agency for  
Reimbursement and foods furnished by the United States Department of Agriculture  
For Fiscal Year 2005****DEFINITIONS OF TERMS:**

In accordance with the agreement between the State of Michigan, Department of Education, and the United States Department of Agriculture, this Agency hereby makes application on behalf of itself to act as distributor for foods donated by the United States Department of Agriculture, (hereinafter referred to as USDA) to the Michigan Department of Education, Food and Nutrition Program (hereinafter referred to as the State Agency) for distribution to eligible recipients in a given area, and agrees to the following terms and conditions.

**THE AGENCY AGREES TO:**

1. Accept the responsibility for the distribution of food commodities donated to the State Agency and to provide or cause to be provided proper facilities and arrangements for the acceptance and distribution of such food commodities in accordance with the following terms and requirements.
2. Serve as a distributing agent to all eligible recipients and coordinate such distribution in the geographic areas served by the Agency. Agency will provide the name and address of each certification, food distribution and storage site under its jurisdiction.
3. Accept the responsibility for the proper management and control of all activities pertaining to the distribution of food commodities in a specified area and comply with all the fiscal and operational requirements prescribed by the State Agency and as required by 7 CFR Parts 247 and 250. The designated Agency representatives shall be authorized to sign for commodities, reports and other documents necessary in the operation of the food distribution program, as approved by the State Agency. Agency staff will attend meetings and training designated by the State Agency.
4. Confine distribution of food commodities received from the State Agency to recipients determined to be eligible in accordance with instructions issued by the State Agency and Federal Regulations 7 CFR Part 247, Part 250 and FNS Food Package Instructions for CSFP. Commodities will be provided to eligible recipients at no cost to the recipient.
5. Exercise at all times procedures to prevent USDA food commodities from being distributed in such manner as to encourage waste, deterioration or misuse.
6. Assure that commodities received, according to this Agreement, will be used solely for the benefit of those persons served by the Agency and will not be processed commercially, or disposed of without written approval of the State Agency. Under no circumstances will USDA commodities be sold or traded. The use of any USDA donated commodities by an ineligible recipient constitutes damage to the federal government under the law. When such irregularities are brought to the attention of the State Agency, it will be necessary for the Agency to make satisfactory settlement with the State Agency for the illegal use of such commodities.
7. Furnish adequate personnel and proper facilities to receive, handle and store products according to local sanitary standards, and distribute the products in accordance with instructions issued by the State Agency.
8. Furnish proper storage and facilities to properly safeguard against theft, spoilage and other losses as recommended by the State Agency for all USDA commodities requested and accepted by the Agency. All storage facilities must be licensed by the Michigan Department of Agriculture. The Agency agrees to install thermometers, suitable ventilation, provide specific temperatures for commodities and use all product on the basis of the First In, First Out (FIFO) inventory system. If recommended storage is not available within the Agency's own buildings, it will be permissible to remove the commodities from their premises for the purpose of providing proper storage in local commercial storage facilities or with merchants who have such storage, provided the Agency makes arrangements with said facilities or merchants to maintain a current record of receipts, withdrawals and balances and be licensed by the Michigan Department of Agriculture. Under no circumstances may donated commodities be stored in private homes.
9. Furnish the State Agency with an inventory of all USDA commodities on hand monthly and upon request of said State Agency.

10. Make available for inspection to representatives of the State Agency or the USDA at any reasonable time the commodities in storage and the facilities or warehouse used in the handling and storage of commodities.
11. Assume full responsibility for demurrage or any other charges which may accrue after a car or truck has been placed for unloading by the delivering carrier at the point of destination as indicated on FNS 7, Destination Data for Donated Foods form. If such placement is prevented by any cause attributable to the Agency, such charges are the responsibility of the Agency. When such charges accrue by the action of the USDA, liability rests with the USDA.
12. The Agency is obliged to afford protection and supervision of the unloading of a shipment at all times. In the absence of warehouse-person or watchperson, the truck is to be properly locked or resealed.
13. Submit forms SM-214, Receiving Report for USDA Donated Foods and SM-214A, Loading/Unloading Tally/Stroke Sheet or PPCR71, Multi-food Consignee Receipt; and (if applicable) FNS-57, Report of Shipment Received, Over, Short, and/or Damaged and SM-10, Recipient Agency Commodity Product Complaint to the State Agency within five (5) days after the receipt of product.
14. Submit required reports: FNS-153, Monthly Report of the Commodity Supplemental Food Program and CSFP-11, Quarterly Administration Financial Status Report **on or before the 15<sup>th</sup> of the month, following the monthly period covered by the report.** THE ENDING INVENTORY MUST BE THE ACTUAL PHYSICAL COUNT.
15. Maintain complete and accurate records pertaining to all transactions relating to the receipt, disposal and inventory of commodities, including records with respect to the receipt and disbursement of funds arising from operation of the distribution program. Such records shall be retained by the Agency for a period of three (3) years following the date of submission of the final expenditure report for the period to which the reports pertains. If an audit is pending, records shall be retained until audit is resolved.
16. Make available at any reasonable time to the State Agency and/or federal representatives of the USDA for review and audit purposes, all records, including financial records and reports pertaining to the distribution of commodities.
17. Assume all liability for any losses or damage to a food commodity caused by fire, water, wind, theft, rodents, or infestation through fault or negligence; for failure to provide proper storage, care of handling while in their warehouse, during transportation and distribution to recipients; for any Program losses caused by other agencies which have entered into agreements with the Agency and for diversion to ineligible recipients; and will reimburse the State Agency upon receipt of a statement indicating the value of the food commodity, which is established through information furnished by the USDA, based on the average cost per pound.
18. Require, if necessary, recipient agencies to pay part or all of the within state costs of distribution through a system of charges assessed by the Agency, as supplied by the State Agency, and subject to final approval of the USDA. The charges assessed shall be reasonable in relation to the services provided and subject to adjustment.
19. Provide nutrition education as required by CSFP Regulations, 7 CFR Part 247.8, and advise participants of the importance of health care and where low-income persons can obtain such care, and submit a Nutrition Education Plan for the Fiscal Year by October 1<sup>st</sup>. For agencies in existence prior to March 3, 1978: to continue arrangements with health care providers for the provision of services to Program participants at the level that existed on March 2, 1978.
20. Establish Program review procedures as required by CSFP Regulations, 7 CFR Part 247.21 (c)(3), to be used in reviewing own operations and those of subsidiaries or contractors. Reviews will be conducted annually.

---

**THE MICHIGAN DEPARTMENT OF EDUCATION, FOOD AND NUTRITION PROGRAM AGREES TO:**

1. Provide appropriate and timely information, clarification and/or technical assistance in the following areas:
  - a. Eligibility requirements for recipients
  - b. Distribution methods and procedures
  - c. All amendments or information pertaining to USDA rules and regulations and the Michigan State Plan of Operation
  - d. Financial, inventory and distribution reporting requirements
  - e. Allowable costs
  - f. Reimbursement procedures
  - g. Accounting and audit requirements/exceptions.

2. Provide advance notice of type and amount of USDA foods which will be available for distribution by the Agency and provide timely information on changes in the notices.
  3. Provide a suggested issuance rate for food to be distributed.
  4. Provide reimbursement payments to the Agency.
- 

#### **OTHER:**

1. When the State Agency determines that a food commodity should be moved from one Agency to another, and arrangements are made by the State Agency, it is mutually agreed between the Agencies involved that there will be no storage, handling or transportation costs accrued on such food commodities, only as determined and agreed upon by the State Agency at the time of the redonation. No USDA food commodities are to be transferred without written authorization from the State Agency.
  2. Political Activity Prohibited: No funds, materials, property or services made available because of this Agreement will be used for any partisan political activity or to further the election or defeat of any candidate for public office.
  3. Religious Activity Prohibited: There shall be no religious instruction or proselytizing as part of, or in connection with, the performance of this Agreement.
  4. General Provisions:
    - a. Merger or Integration: This Agreement constitutes the entire Agreement between the State Agency and the Agency with respect to the subject matter hereof and there are no other or further written or oral understanding or agreements with respect hereto.
    - b. Modification: No variation or modification of this Agreement, and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of the State Agency and the Agency.
    - c. Assignment of Delegation: No assignment or delegation of this Agreement may be made, in whole or in part, without the written consent of the State Agency or the Agency;
    - d. Termination: The State Agency or the Agency may terminate this agreement by giving thirty (30) days notice in writing to the other party. The State Agency may cancel this agreement immediately upon receipt of evidence that the terms and conditions thereof have not been fully complied with by the Agency. Subject to such notice of termination or cancellation of the agreement, the Agency agrees to comply with the instructions of the State Agency, either to: 1) distribute all remaining inventories of USDA commodities in accordance with the provisions of this agreement; or 2) release USDA commodities to the State Agency at no cost.
  5. Indemnification: Both parties shall indemnify, defend and hold harmless each other against any and all expense and liability of any kind which the parties may sustain, incur or be required to pay arising out of this Agreement provided, however, that the provisions of this paragraph shall not apply to liabilities or expenses caused by, or resulting from, the acts or omissions of either party or any of their officers or employees.
  6. Confidentiality: The use or disclosure of information concerning services, applicants, or recipients obtained in connection with the performance of this Agreement shall be restricted to purposes directly connected with the Administration of the services provided through this Agreement.
  7. The Agency agrees to comply with all requirements imposed by or pursuant to the Civil Rights Act of 1964 and the USDA Regulations (7CFR Part 15), including any subsequent amendments, issued to effectuate that Act. Compliance will be consistent with the objectives that no person in the United States shall, on the grounds of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation and marital or family status, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity of the Agency which assistance is provided by the USDA. The Agency agrees to be obligated by this assurance as long as it receives assistance hereunder or retains possession of the State Agency. Should the Agency fail to comply with this assurance, the USDA or the State Agency shall have the right to seek its enforcement by judicial or any other means authorized by law. Except that any termination of this Agreement for noncompliance with Title VI of the Civil Rights Act of 1964 shall be in accordance with applicable laws and regulations.
  8. Right to Know Act (Act 80 of 1986) – The “Right to Know Act” is intended to provide protection and information to employees who encounter hazardous substances in the workplace. The manufacturing industry must comply with requirements of labeling containers of hazardous materials, provide access to material safety data sheets, worker education, and training. Products having hazardous and/or potentially hazardous substances must be labeled accordingly.
  9. The CSFP State Plan of Operation shall be an addendum to this Agreement. *(Available upon request)*
-

**TERM OF AGREEMENT:**

The period of this Agreement is **October 1, 2004 through September 30, 2005 and any additional periods agreed to by the State Agency and the Agency.**